

REMARKS

Claims 1, 4 – 6, 8 – 10, 13 and 31 are currently pending. Claims 1, 4 – 6, 8 – 10, 13 and 31 have been rejected.

Claim 1 is amended. No new matter is introduced by this amendment. The amendment to claim 1 is supported at least by paragraph [0015] of the specification.

Rejections under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1, 2, 4 - 6, 8 - 10, 13 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Taylor et al., United States Patent No. 6,083,257 ("Taylor"), in view of Ecer et al., United States Patent No. 4,486,247 ("Ecer"), or in the alternative Taylor in view of Ecer and Kamath et al., United States Patent No. 6,335,029 ("Kamath").

The Examiner's Contentions

The Examiner contends that Taylor teaches a metallic stent having a polymer film, but does not teach chemical bonding of the film to carbon deposits in the stent. Kamath is cited for the covalent bonding of one film to another film on a stent, and Ecer is cited for the inclusion of carbon deposits in a stainless steel alloy. The Examiner then states that it would be obvious to modify the stent of Taylor by application of the chemically bound polymer layer of Kamath, and add the carbon deposits of Ecer to the stainless steel of the stent body. Specifically, with respect to Ecer, the Examiner states "[i]t is well within the general knowledge of one having ordinary skill in the art to apply a known technique to a known device ready for improvement to yield predictable results."

Applicants traverse.

Applicants' Response

The examiner has cited Taylor as evidence of a polymeric film coated on a

bare metal stent. The examiner admits, however, that Taylor does not disclose chemical bonding of the film to the metallic surface of the stent. The examiner thus invokes Kamath as teaching covalent bonding **between polymeric layers**: "... the plasma polymerization process allows covalent anchoring of the barrier layer 20 to the **polymer matrix** in the composite layer 5." (Emphasis added.) While this does not come even close to the present invention, i.e., chemical bonding of a polymer layer directly the bare metal surface of stent, the examiner tries to side step this fatal flaw by arguing "... it would have been obvious ... to deposit Taylor's polymer film layer by a plasma polymerization process as taught by Kamath et al. Doing so would enhance the bond between the stent body and the polymer film." Kamath's procedure cannot possibly have any effect on the bond between the stent body and the plasma polymerized polymer film for the simple reason that it is not applied to the stent body, but rather to another layer that has been applied to the stent body. Further, Taylor and Kamath together make no mention whatsoever of using carbon deposits in the metal stent as the sites for chemical bonding. For this, the examiner turns to Ecer, the examiner noting that Ecer teaches implanting carbon in steel. Applicants do not dispute this. Ecer, however, teaches implantation of carbon for the sole purpose of enhancing wear resistance. There is not so much as a hint in Ecer of polymeric coatings being applied over the carbon-deposited metal. In fact, such would thwart the purpose of Ecer's invention, to make the metal surface more abrasion resistant. In short, there is absolutely nothing in Ecer to cause one of ordinary skill in the art to so much as abstractly consider using Ecer's carbon deposits as sites for chemical bonding of a polymeric layer to the metal surface.

The examiner is requested to reconsider and thereupon withdraw the rejection.

With regard to claims 4 – 6, whether or not the examiner's assertion that it would have been obvious to provide a film layer with the materials mentioned in these claims is irrelevant since claims 4 – 6 depend from claim 1 and, as pointed out above, claim 1 is allowable over Taylor/Kamath/Ecer. So too then must be claims 4 – 6.

Likewise, with regard to claim 10, whether or not inclusion of a therapeutic substance in the polymeric layer was known in the art is also irrelevant since claim 10 depends from allowable claim 1 and therefore must itself be allowable.

The examiner is requested to reconsider and thereupon withdraw the rejections of claims 4 – 6 and 10.

CONCLUSION

Applicants believe, based on the amendments to the claims herein and the above remarks, that this application is in condition for allowance and respectfully request that it be passed to issue.

Applicants do not believe that any fee is due with this response. If this is incorrect, the Commissioner is authorized to charge any fee due to **Squire, Sanders & Dempsey Deposit Account No. 07-1850.**

Date: September 8, 2008
Squire, Sanders & Dempsey L.L.P.
One Maritime Plaza, Suite 300
San Francisco, CA 94111
Telephone (415) 954-0397
Facsimile (415) 393-9887

Respectfully submitted,



Gloria M. Gusler, Ph.D.
Attorney for Applicants
Reg. No. 50,282